

# THE MARTHA'S VINEYARD COMMISSION

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## *Martha's Vineyard Commission Minutes for the Special Meeting of June 10, 1999*

The Martha's Vineyard Commission held a Special Meeting on Thursday, June 10, 1999, at 7:30 p.m. at the Aquinnah Town Hall on State Road in Aquinnah, Mass.

[The acoustics in the Aquinnah Town Hall were less than ideal for tape-recording the Meeting. Therefore, in compiling these Minutes, MVC Secretary Pia Webster relied heavily on the shorthand notes she took during the session. MVC Staff members who were also present checked the manuscript for accuracy.]

At 7:40 p.m., there being a quorum present, Richard J. Toole, Chairman of the Commission and a member representing Oak Bluffs, adjourned the Special Meeting.

Chairing the Public Hearing scheduled for that evening was Jane A. Greene, Chair of the Aquinnah District of Critical Planning Concern (DCPC) Committee and a Commission member representing Chilmark.

### **Public Hearing: Aquinnah DCPC, Town of Aquinnah.**

Ms. Greene began the Hearing by reading aloud the Notice of Public Hearing, which read as follows:

*"The Martha's Vineyard Commission will hold a Public Hearing on Thursday, June 10, 1999, at 7:30 p.m. at the Aquinnah Town Hall, State Road, Aquinnah, Massachusetts, pursuant to Chapter 831 of the Acts of 1977, as Amended, and Massachusetts General Laws, Chapter 30A, Section 2, and the Standards and Criteria regarding Designation of a District of Critical Planning Concern (DCPC) adopted by the Commission and approved on September 5, 1975 by the*

*Secretary of Communities and Development, to hear testimony and receive evidence as to whether the Commission should designate specific geographic areas of land and waters on Martha's Vineyard as described below as a District of Critical Planning Concern:*

*The proposed 'Town of Aquinnah District' consists of all lands and waters within the corporate bounds of the Town of Aquinnah."*

Ms. Greene explained that on April 22, 1999, the Commission had accepted the Nomination of the Town of Aquinnah District by the Aquinnah Planning Board, at which point a moratorium which suspended the Town's permitting authority (with an exemption process in place) had begun. That moratorium would continue until the appropriate Town Boards had written the Regulations for the new District, the Regulations had been adopted by the Town, and the Commission had voted to accept them as being consistent with the Commission's General Guidelines for the District.

Ms. Greene then outlined the format for the Hearing: presentation by the Aquinnah Planning Board; MVC Staff Report; reports and comment from other Town Boards; and public comment.

#### **Presentation by the Nominating Board.**

First to speak was **Peter Temple of the Aquinnah Planning Board**, who noted that Camille Rose, Chair of that Board, who had intended to make that evening's presentation, was not feeling well enough to attend. He apologized for not being adequately prepared. He then outlined the concerns of the Board which had led to the Nomination of the new District.

There were certain areas that everyone agreed were important to preserve which were now unprotected and zoned for development, Mr. Temple explained. One area in particular was East Pasture on Menemsha Pond, where a 28-foot-high house that was well above the tree line had been built. The Planning Board was afraid, he said, that whole areas like this could be clear-cut and that there were no controls in place to prevent such a calamity. What the Board had been hoping was that the moratorium would allow them enough "breathing space" to put into place appropriate control measures.

Commission member Benjamin Hall, Jr., representing Edgartown, referred to the proposed Town bylaws that had been published recently in the *Vineyard Gazette*. One of the bylaws would limit the building envelope to 2 percent of the total square-footage of the lot. Mr. Hall wished to know more about this. Mr. Temple explained that there were many homes that had been summer camps with small, unobtrusive structures; these were now being replaced by five- and six-bedroom houses on the same land area as the small camps. The new bylaw was designed to address such situations, he said.

**Staff Report: Jo-Ann Taylor, MVC Staff.**

Ms. Taylor described the Designation Criteria relevant to the new District, the Nomination Category of which was Cultural or Historic Resource District. That type of District, she explained, quoting from the Standards and Criteria,

"contains a place, landscape, way or view which is in some special way expressive of the character of the Island, traditions of the Island residents and of special interest to Island visitors. The maintenance and protection of these values is essential to a sound local economy. The District also is of exceptional symbolic or recreational importance to the residents of more than one Town and is irreplaceable, or replaceable only with extraordinary effort or expense. Subject to the above general tests, Designations may be considered for areas which are important for their connection with the history of the region -- including its geological history or the history of its Indian settlement -- or which symbolize and support the traditional activities and ways of Island life ..."

Ms. Taylor then quoted from the Nomination, explaining the Planning Board's reasoning on the ways in which the new Town of Aquinnah District would fit these criteria. There was the question, she continued, of the way many areas of the Town were not visible or accessible to the public, and whether a development in the Town's interior that was not visible to public should be included in such a District. For instance, the Commission had voted down an expansion of the Moshup Trail District in June 1995 after hearing that much of the interior portion of the proposed expansion was not visible from Moshup Trail or from the public vantage point at the Clay Cliffs. Two months later, the Commission approved an expansion of the District according to a boundary designed to include lots that impacted the public view, but not the interior lots.

Under General Qualifications, continued Ms. Taylor, was for the Need for Designation. To establish the District, the Commission had to find that "the present public or private regulations in a substantial part of the District cannot assure protection; and that damage to the District or impediments to proper development will be a substantial loss to the region or to two or more Towns." She then outlined the existing protections, as well as the need for special Regulations.

In considering the Nomination, explained Ms. Taylor, it was important to consider what the Town was equipped to do on its own to protect the area. For instance, the Nomination sought to protect the entire Town with a mechanisms like site plan review. However, it was possible for the Town to institute site plan review on its own for a Special Permit procedure. The Town could also independently restrict the heights of residences, and it had, in fact, scheduled a Public Hearing for the next evening to consider

such a zoning amendment. Moreover, Ms. Taylor went on, the Town could require site plan review as part of a Special Permit for construction over a chosen height.

Options other than the proposed Designation, said Ms. Taylor, were a petition to the Commission to expand the boundaries of existing DCPCs in the Town or to approve amendments to the Regulations for those Districts. For instance, the Island Roads District did not currently have site plan review; it could be amended to include such.

Ms. Taylor then described the size and shape of the proposed District. According to the Nomination, the entire Town was in need of protection because of a trend toward the construction of "massive houses with ocean views on interior properties." The Planning Board had found that those very large homes might have inappropriate materials as well as designs not in harmony with the landscape. Moreover, there was little woodland cover in the Town.

However, said Ms. Taylor, to be of regional significance, the visual impacts had to intrude upon the public domain. It was possible that development on the interior might not be visible from any part of the public domain. She reminded the Commission that historically it had designated Districts with specific boundaries to protect the view in the public domain.

Also important to consider was whether or not the Nominated District was a logical area for a system of regulations, Ms. Taylor continued. In fact, the District included lands exempted in Chapter 831 from the responsibilities, duties and powers of the Martha's Vineyard Commission, including "the Indian Common Lands known generally as the Cranberry Bogs, the Clay Cliffs and Herring Creek." In 1989, when the Commission established the Gay Head Cliff Area District, the tribal lands in the area had been excluded. Also, the Town is excluded from unilateral regulation of the "Settlement Lands."

Ms. Taylor then referred to a letter from Beverly M. Wright, Wampanoag Tribal Chairperson, dated June 8, 1999. In the letter Ms. Wright pointed out that "[a]ny attempt by the Martha's Vineyard Commission to restrict land use on tribal land through the proposed DCPC Nomination would be in direct contravention of the 1983 Settlement Agreement and the subsequent enactment of the 1987 Settlement Act by Congress." The Tribe, she wrote, questioned the "ability of the Town to develop and enforce regulations that will protect '*land all over Aquinnah (that) has sacred significance for the Wampanoag People*' without even consulting or collaborating with the tribal government." [Emphasis supplied by Ms. Wright]

Commission member Megan Ottens-Sargent, representing Aquinnah, asked Ms. Taylor if current bylaws could be amended so that the size of a house would "click off" a Planning Board plan review. Ms. Taylor answered, No. Ms. Ottens-Sargent noted that the Town was hoping to use "the clout" of the Commission in addressing its growth problems and

that Commission regulations would have more strength than those of the Planning Board. Ms. Taylor mentioned that actually the Town would be writing and enforcing the Regulations for the District if it was accepted.

Commission member Tristan Israel, representing Tisbury, asked Ms. Taylor for an example of what the Commission could do that the Town of Aquinnah could not. Ms. Taylor pointed to some of the things that could be regulated in the Overlay Districts that already existed on the Island. For instance, in Oak Bluffs the Copeland Plan had made it possible for the Town to do architectural reviews, which it had not been able to before because there was no Historic District.

Governor's Appointee Anne Harney Gallagher asked if the Nomination was, in fact, legal, being it had included the tribal lands within the boundaries of the District. Ms. Greene said that the Act was very clear on the jurisdiction of the Commission, and Ms. Taylor reiterated points previously made about the exemption of tribal lands from any such District. [Refer to *Staff Notes for the Public Hearing of June 10, 1999 (Taylor): Town of Aquinnah District*, the last paragraph at the bottom of page 4.] Commission member Linda Sibley, representing West Tisbury, pointed out that U.S. Government and State lands were also exempt from Chapter 831.

Commission member Michael Colaneri, also of West Tisbury, wanted to know if the Staff believed that the concerns of the Aquinnah Planning Board had a regional basis. Ms. Taylor said that she thought that the Board had been overwhelmed by recent development in the Town and that they were seeking some way to gain control over the situation. But the Town can do height restrictions and site review, said Mr. Colaneri. Ms. Taylor replied that it did not matter so much what the Staff thought about the proposal, but rather what the Commission thought about it. Ms. Taylor herself had some concerns about construction that was in the public domain, but this could be addressed on a case-by-case basis. There was no way one could see the interior lots, she added.

Commission member Jim Vercruysse, representing Aquinnah, said that one of the Planning Board's concerns had been the views from the flatlands and, for instance, a particularly obtrusive house that could be seen from Vineyard Sound. Some of the large structures they referred to were very visible, yet were not in the current Districts and so were not subject to their Regulations. Ms. Ottens-Sargent pointed to the August 1995 Moshup Trail Expansion and how part of Old South Road was not in the original District, yet it was certainly in the public domain.

#### **Testimony from Town Boards.**

**Mr. Temple of the Planning Board** said he wanted to "give it a second shot." He again explained that the Designation was a "short-term, stop-gap measure" and that his Board "need[ed] some time to explore other options." Ms. Greene asked him why the Board had

included the tribal lands in the Application. Mr. Temple replied that it had been hoped that the whole Town could be protected and that the tribe would agree to the new Regulations.

Governor's Alternate Truman Henson, Jr., asked for a further elucidation of the restrictions proposed besides the ones concerning height and the 2 percent building envelope. Mr. Temple spoke of the clear-cutting and stone wall issues. County Commission representative Lenny Jason, Jr., asked for more details about the 2 percent building envelope. Mr. Temple that under the proposed bylaw the total enclosed area of the house could not exceed 2 percent of the total square-footage of the lot. The purpose of this restriction was to address the problem of "sprawl" that often resulted when owners were not allowed to build upward.

Mr. Hall wanted to know why the Planning Board had not instituted a moratorium by a Town vote, with a Town Meeting and so forth. Mr. Temple replied that they had wanted to work with the system they had used in the past, that is, the District of Critical Planning Concern option. Ms. Sibley asked if the Board had been hoping that the tribe would approve the resulting Regulations. Mr. Temple said that the Board hoped that the tribe would adopt whatever the Town adopted. "But you're acknowledging that your DCPC rules don't applied to the tribal lands?" asked Ms. Sibley. Yes, replied Mr. Temple.

Mr. Hall asked how many "offending" permits there had been which contributed to the decision to Nominate the District. "It's not so much how many ..." said Mr. Temple. Then, how many building permit applications had there been in the past year? wondered Mr. Hall. Mr. Temple replied that he was not sure. Mr. Hall said that he thought around 17 had been issued in the past year. But, it's not the number, repeated Mr. Temple. He explained that engineers and developers were finding ways, for instance, to put buildings where it was never thought they could be built. In the meantime, Ms. Greene had gotten hold of the latest Aquinnah Town Report, which indicated that 15 building permits had been issued in Fiscal Year 98.

**JoAnn Eccher, also of the Aquinnah Planning Board**, emphasized that the decision about the Designation had not been made yet and that there was still time to respond to Ms. Wright's concerns about the tribal lands. She herself liked the idea of a DCPC as "a planning tool." The Board was also looking at developing a Master Plan, she said.

**Bill Sargent of the Aquinnah Conservation Commission** said that the Town, as well as the Island as a whole, had to "move away from reacting to scenarios and start simply acting. Is this the proper use of a DCPC?" he asked. By designating an entire Town a DCPC, did that dilute the concept of such a District? He also wondered what would happen to the existing DCPCs in the Town of Aquinnah. An Overlay [District] is an Overlay is an Overlay, commented Ms. Greene. Then she explained that the existing DCPCs would remain intact.

Mr. Sargent then asked if the Commission could come up with other suggestions for controlling development in Aquinnah. There was currently nothing in the bylaws, said Ms. Greene.

**Beverly Wright, Tribal Chairperson of the Aquinnah Wampanoags**, noted that she was happy that her letter to the Commission had been included in the Hearing. Mr. Temple and Ms. Sibley had agreed that tribal land could not be included in the District, right? asked Ms. Wright. Right, replied Ms. Greene. "So why did the Planning Board exclude the tribe?" asked Ms. Wright rhetorically.

#### **Testimony from Members of the Public in Favor of the Designation.**

**John Ketcham, a summer resident of Aquinnah**, said that his community in South Carolina was in the middle of a similar moratorium and that "the loopholes are filling really fast." He entreated the Commission to "do it quickly and without exceptions."

**Yvonne Eastman from East Pasture** said that her husband had bought their property 60 years before and that they were the largest landowners in that area. She for one had given the whole front of her hill to the Sheriff's Meadow Foundation so that it could never be developed. She hoped, she concluded, that other people would do the same thing.

**Elaine Vanderhoop of Old South Road, Aquinnah**, said that if the DCPC Designation was the only way that the Town could control "the out-of-control construction, then I would be for it." She believed, however, that there should have been a Town Meeting first, before bringing in another organization, that is, the Commission. "I don't understand, however, what the implications of a DCPC will be," she said.

Ms. Greene explained the DCPC process to Ms. Vanderhoop and included the fact that the Regulations would be formulated by Town Boards and would have to be voted on at Town Meeting. "Then I'm for it," said Ms. Vanderhoop. "The trophy-house building, we have to stop, before Gay Head turns into another Mattekessett."

Ms. Wright asked about the definition of "trophy houses." "It's houses bigger than their own houses," said Ms. Greene.

"I hope we can keep the purity of Gay Head," said **Amanda Sanfilippo of Aquinnah**. Although the waters are fragile, there was still a pure pond in the Town, she observed. The siting of houses was of great concern to her because of the harm that septic systems could do to the wetlands. "It's reasonable to consider the issue of overdevelopment," she said. "I support the DCPC."

### **Testimony from Members of the Public Opposed to the Designation.**

**June Manning of Aquinnah** said that she was "appalled" that the Planning Board had gone ahead without speaking to the Town fathers about the Nomination. Already the Town had "two-acre snob zoning" and so many wetlands that siting houses was difficult at best. At well over \$100,000 an acre, it was becoming increasingly difficult to identify affordable properties. "We have one trophy house going up in Town," she said. "All because of one trophy house, we're going to do this?"

**John Walsh of Aquinnah** said that he agreed with Ms. Manning. The Town Boards, he contended, had the potential to control overdevelopment. There was really only one 28-foot house in Town, and that had been built years ago, he said. And although many new houses were "eyesores" when they were built and construction sites could look raw and ugly, with time and appropriate landscaping, most houses settled nicely into their sites. What the Town needed, he said, were quarter-acre lots, emphasizing the word "quarter." "We benefit when people come and build nice houses," he concluded.

**Marc Widdiss of Aquinnah**, who described himself as "a former member of this august body," thought that this was a "haphazard, ill-conceived Nomination by the Planning Board." He, personally, was offended by it; the Town already had enough regulations. "We need a more stringent application of the rules we have," he said. "Bad taste comes in all sizes." Mr. Widdiss believed that such a Designation was getting "so far away from what the Town should be doing. I hope you will look at this closely. We've got plenty of regulations already."

**June Manning**, who had spoken earlier, noted that there was not another city or Town in the Commonwealth that had elected to do this.

**Paul Vandal of Aquinnah** said that anyone could see how many restrictions and how few building lots there were already. "This talk about trophy houses, it doesn't matter -- 2,000, 3,000, 4,000 square feet -- it doesn't matter," he said. "What's needed is for the Boards to address the issues of community space and affordable housing." **Elaine Vanderhoop**, who had spoken earlier in favor of the Designation, offered that a trophy house was one built way out of proportion with the personal needs of the occupants, for instance, building six bedrooms when only three were needed. There were water problems already, she said, with all the wetlands separations, and the Conservation Commission hadn't "put its foot down" when it should have. **Yvette Eastman**, who had also already spoken in favor of the Designation, said that she did not think the Town's restrictions were stringent enough.

**Peter Temple**, the Planning Board member, wanted to address June Manning's criticism of his Board's secretiveness. He reminded the audience about the "window of opportunity" builders had had when it was first learned that the Moshup Trail would be



nominated as a DCPC. "We weren't trying to avoid discussion," he said. "We just wanted to get the moratorium quickly so that people wouldn't come in under the wire." He added that affordable housing was certainly something that the Town was trying to address.

**Amanda Sanfilippo**, who had spoken earlier, said that she had seen violations by home builders that were flagrant, that some people would simply violate the law and willingly pay the fine. There were many 50-year-old trees gone that were supposed to be protected by Town bylaws, but they had not been. "Things are happening without anybody knowing it," she said.

**Walter Delaney, Chairman of the Aquinnah Board of Selectmen**, said that on June 30 the Town would be going to Special Town Meeting. If there's anything you want on the Warrant, he said, come forward at the next Selectmen's meeting.

**Derrill Bazy of Aquinnah** identified himself as the Aquinnah representative of the Dukes County Regional Housing Authority, although he was speaking that evening as a private citizen. He said that the Town should back "something like what Marc Widdiss suggested," that is, a more stringent application of the rules already in place. "The DCPC is not the solution," he continued. "It was required to give us the time to plan. One of those things to plan is affordable housing ... If you grant the DCPC, then you must ask something of us." Mr. Bazy suggested that the Commission make the granting of the DCPC incumbent upon the Town's getting their planning policy in order.

**John Walsh**, who had spoken earlier, wondered if the Commission could delay its vote until after the Town had voted on the new proposed bylaws. Ms. Greene explained that there was a time line that the Commission had to adhere to and that they had to vote on the matter by June 21. Ms. Sibley pointed out that the Town would, in fact, be the one writing the Regulations and enforcing the Regulations. So if we do this, you won't be involved in it for the next 20 years? asked Mr. Walsh. That's right, replied Ms. Greene, the moratorium would end in one year.

But, said Mr. Walsh, the Rules and Regulations have to be within your Guidelines, so we would always have to deal with you. No, said Ms. Sibley, "we're sharing powers." She then explained how the Town could acquire certain powers through the DCPC that it could not acquire on its own.

Mr. Hall wanted to know: If the Commission voted not to accept the Designation, then could the Planning Board resubmit the Application and have another Hearing? Mr. Israel wondered if the Public Record would remain open after the Hearing closed. "I'd rather take a vote tonight," he said.

**Peter Ochs of Aquinnah** asked if one of the special powers the Town would acquire would be the right to impose the 2 percent restriction. "Maybe," replied Ms. Sibley, "but

I'm not a lawyer." Mr. Hall, an attorney, said that although the Town could not regulate the interior of a person's residence, it could enforce an architectural review, and size could be part of the requirements.

There being no more questions from the Commission members, Ms. Greene closed the Public Hearing at 9:09 p.m.

There was a brief break while the Aquinnah residents filed out of the room.

At 9:20 p.m. Chairman Richard Toole called the Meeting to order.

**Item #3: Approval of the Meeting Minutes of May 13, 1999.**

Ms. Greene made a Motion to Approve the Meeting Minutes of May 13, 1999, duly seconded. She pointed out that on page 7 the word "Some" should be struck from the section heading "Some Questions from the Commission Members," making it read "Questions from the Commission Members."

Commission member Robert Zeltzer, representing Chilmark, noted a typographical error on page 6, where the word "Bluffs" (as in "Oak Bluffs") had been typed as "Boards."

[The preceding Thursday, Mr. Hall and Mr. Jason had submitted written corrections to Ms. Webster. Mr. Hall suggested a revision on page 4, paragraph 1, sentence 1, namely, that the word "proscription" should be changed to "prescription," making the sentence read: "Mr. Ward then explained the three ways in Massachusetts one could create public rights on somebody's property: through dedication, Town Meeting action and prescription." Mr. Hall also wished to have Joseph Hall, whose presentation on the Black Dog Cafe Expansion was described on pages 11 through 13, referred to by his full name so as to avoid confusion with Mr. Hall himself.

In his notes Mr. Jason pointed out that on page 3, paragraph 1, sentence 1, the word "has" should be changed to "had" so the sentence would read: "He emphasized that the roads that ran through the Southern Woodlands DCPC had never been abandoned ..." Also, Mr. Jason wanted it noted on page 11 in paragraph 7, that he had left the room for the Black Dog Cafe Expansion vote reconsideration.]

Ms. Greene made a Motion to Approve the Minutes of May 13, 1999, as Amended, duly seconded. The vote went as follows:

AYES: J. Best; C. Brown; M. Colaneri; M. Donaroma; J. Greene;  
T. Israel; L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent;  
L. Sibley; R. Toole; J. Vercruysse; R. Zeltzer; T. Henson;  
and Anne Gallagher.

NAYS: None.

ABSTAINING: B. Hall, Jr.

ABSENT: M. Cini; J. Early; M. Allen; and M. Bolling.

**Item #4: Reports.**

The **Chair's Report** was presented by Mr. Toole, who informed the Commission members that MVC Executive Director Charles W. Clifford had written a letter to Applicant Owen Larkin requesting a three-week extension of the Martha's Vineyard Golf Partners' time line to July 12. Did we get the extension? asked Mr. Jason. Yes, replied Mr. Clifford, we heard today.

Regarding the **Affordable Housing Subcommittee**, Mr. Hall announced that its next meeting would be on June 15 at 4:00 p.m. at Commission Offices.

Reporting on the **Cell Tower Study Group**, Commission member Christina Brown of Edgartown reported that the Town's Planning Board had received a letter from the consulting firm that had put together the Cape Cod Commission's design and siting guidelines. Consultant Ted Kreines had offered his services to the Town without charge, and the Planning Board had invited him to come to provide a presentation. Commission member Michael Donaroma, also of Edgartown, commented that many of these companies had devised ingenious ways to disguise their antennas, for instance, on church crosses and flagpoles.

Mr. Clifford provided the **Legislative Update**, reporting that the State Senate had gotten the budget out of committee and expected the Governor to "destroy" it. Mr. Clifford noted that he expected to spend "the next week and a half in Boston." Was this the time to ask the Towns to put money aside for Special Town Meetings? asked Mr. Hall. No, replied Mr. Clifford, wait until the cherry sheet comes out. There was further discussion about the budget and the drain that the "Big Dig" had imposed. "It's difficult to know who to lobby," remarked Mr. Clifford.

Mr. Colaneri asked what had happened to the Windy Gates DRI (#494). Mr. Clifford explained that the Applicant's attorney was still trying to negotiate with the Town of Chilmark regarding an easement for access to the Town Forest.

**Continued Review Session with Staff: Martha's Vineyard Golf Partners, LLC.**

Being ineligible to vote on DRI #484, Mr. Hall left the Meeting at the start of the session at 9:34 p.m..

David Wessling, the MVC Staff member in charge of Developments of Regional Impact, began by displaying the map he had produced earlier in the week, as requested by the Commission members in the Meeting of June 3. Mr. Wessling described the 235-acre parcel, including its boundaries and the abutting properties. He pointed out the frost bottom, which was the home of several rare and endangered moth species, as well as a hunting area for the Northern Harrier. He also indicated the sites of the practice areas (chipping and driving), the clubhouse, the member housing and the parking for members and employees.

Commission member Linda Sibley, representing West Tisbury, wanted to know how big the chipping range was. Three hundred yards long, replied Mr. Wessling. Tristan Israel, representing Tisbury, asked where the seasonal housing would be located. Mr. Wessling explained that the Applicant had offered to make a written commitment to supply 40 beds for seasonal employees. What form these would take had not yet been determined.

Mr. Wessling continued by pointing out the two artificial ponds, one a reservoir and the other, a runoff pumping basin. He went over the trails on the site, which included the Dr. Fisher Road, Middle Line Path and Three-Cornered Rock Road. Because of the intensity of golfing activity nearby, the Dr. Fisher path would be gated from mid-June to mid-September and an alternate route provided for hikers and walkers. Commission member Michael Colaneri, representing West Tisbury, asked if the Edgartown Trails and By-ways Committee had met with the Applicant and agreed that this was a good plan. Yes, replied Mr. Wessling, who then continued by describing the other trails on the site.

Mr. Wessling explained that a portion of the frost bottom had already been disturbed by excavations related to the now-defunct Vineyard Acres II subdivision project in the 1980s. He then described the affordable housing proposed for the site: a total of four houses, two houses on each of two one-acre lots, with one one-acre lot going to the Dukes County Regional Housing Authority and the other going to the Edgartown Resident Homesite Committee.

Commission member John Best, representing Tisbury, wanted to know where the turf maintenance facility would be located. It appeared to him to overlap some of the fairways. Yes, it did, replied Mr. Wessling. The course had been provisionally laid out so that the possibility of additional staff housing in the area of the maintenance facility would remain open. And if the Applicant were to house 40 seasonal workers on this site, what form would the housing take? asked Mr. Colaneri. Mr. Wessling answered that it could be five houses with eight beds in each -- That proposal had been floated during the winter.

Megan Ottens-Sargent, a Commission member representing Aquinnah, had questions about the proposed conservation restrictions. She had heard that the Applicant would be

putting in more houses as a last resort. Mr. Wessling again went over the options in front of the Applicant concerning the housing.

Ms. Sibley referred to an area of 30 protected acres and asked if the frost bottom was included in that. Yes, said Mr. Wessling. Ms. Ottens-Sargent wanted to know if the existing conservation restriction was a standard one. This question was answered by MVC Staff member Jo-Ann Taylor, who explained that it was not a standard conservation restriction as far as public access was concerned: All areas were accessible to the general public, and the public could cut trails on the property. And have you compared the two conservation restrictions? asked Ms. Ottens-Sargent. Yes, she had, replied Ms. Taylor.

Mr. Israel noted that he thought that the standing conservation restriction had been instituted before the frost bottom had been recognized as the rare habitat that it was. Ms. Taylor explained that the existing restriction was focused on the protection of vistas rather than on habitat protection.

Did the new conservation restriction protect the frost bottom? asked Ms. Ottens-Sargent. Jane A. Greene, a Commission member representing Chilmark, addressed this as she explained how the golf course rules would specifically regulate all activity in and near the frost bottom. [Refer to the Meeting Minutes of May 22, 1999, page 6, for the specifics of the Applicant's offer to protect the frost bottom from golfers and golf balls.]

Ms. Taylor continued to outline the conditions of the new conservation restriction, which would prohibit any future construction in the area, as well as an annual stipend to the Sheriff's Meadow Foundation to manage it. The County Commission representative, Lenny Jason, Jr., wondered if, in Ms. Taylor's opinion, the current layout would adequately protect the frost bottom. Yes, replied Ms. Taylor.

Mr. Jason then asked for specifics about the closing of a section of the Dr. Fisher Road during the peak season. Mr. Wessling explained that the path would have two gates and there would be signage to guide walkers. Mr. Jason wanted to know if the Applicant had a right to gate the Ancient Way. Who had rights on Dr. Fisher Road? and Who gives up a right in order for the Applicant to have a gate? asked Mr. Jason. Mr. Wessling replied that this change would require a two-thirds vote by the Town.

Robert Zeltzer, a Commission member representing Chilmark, said he was "dubious" about the June 15 to September 15 dates. Why not close that part of the path all the time? he wondered. Couldn't people get hit with balls at any time golf was being played in that area?

Mr. Colaneri wanted to know how the Applicant had arrived at this plan for the Dr. Fisher Ancient Way. William Veno, MVC Staff, explained that in the initial proposal the Applicant had intended to abandon that section of the Dr. Fisher Road altogether. The

Edgartown Trails and By-ways Committee, which wished to protect the existing nature of the path, had then met with the Applicant, he said. Will there be a little sign there? asked Mr. Colaneri. Mr. Veno replied that there should be a barrier there to direct people away from the path.

So, there'll be no golf played before June 15? Or do you supply the public with helmets? wondered Michele Lazerow, a Commission member representing Oak Bluffs. MVC Executive Director Charles W. Clifford informed her that the club would be open 12 months of the year.

Mr. Israel wished for further clarification on the exact arrangement of the housing on the site, which Mr. Wessling provided. [Refer to architect Joanne Gosser's presentations in the Meeting Minutes of February 11, 1999, and March 18, 1999.] He mentioned that design guidelines based on the "look and feel" of Farm Neck would be provided to the builders. Is there a detailed layout of these buildings? asked Ms. Sibley. Mr. Wessling advised her to look at the February site plan.

Mr. Wessling spoke again about the affordable housing provisions: the four houses, plus a \$10,000 annual contribution to fund the Dukes County Regional Housing Authority. Incidentally, he said, the housing authority had chosen not to accept the Applicant's offer. A brief discussion of the affordable housing issue ensued.

Mr. Israel continued to ask very specific questions about the housing on the site. Mr. Clifford advised him to "look at it as a package, Tristan." "But when a housing development comes before the Commission," said Mr. Israel, "we usually ask a lot of questions, don't we?" Mr. Wessling once more explained that there were only guidelines and no fixed plan for the housing. "But the housing element is big enough to be a DRI by itself," said Ms. Sibley. "We have an amorphous plan for the housing." "We're getting stuck here," interjected the Chair, Mr. Toole.

What about the layouts, drainage, traffic, et cetera? asked Mr. Israel. "All those questions are addressed by the design guidelines," replied Mr. Wessling. In addition, it had been determined that traffic would not pose a significant problem. "So the traffic is 'no big deal'? What does that mean?" asked Mr. Israel. It means that we're not expecting any significant problem," replied Mr. Wessling.

Mr. Wessling continued with his presentation. No architectural or archaeological artifacts had been found on the site, he said. About 100 acres of the site would be altered. The Applicant, he said, had provided a lengthy construction schedule, as well as a long list of mitigation measures. Isn't the Applicant going to be bringing material and equipment over by barge? asked Mr. Jason. Only the greens mix was to be barged, said Mr. Wessling.

[Refer to the Meeting Minutes of March 18, 1999, beginning on page 7, the testimony of Jeff Carlson, designated course manager, which reads in part: "Most of the contractor's equipment and materials would be brought to the Island on a barge system, probably out of New Bedford; it would have no effect on the ferry schedule.... Then would come the finished construction.... The [greens] mix ... would be brought in by barge."]

Truman Henson, the Governor's Alternate, noted that the Edgartown Conservation Commission had given some indication of support. Had any other entities done so, for instance, the Trails and By-ways Committee? he asked. Mr. Toole outlined for Mr. Henson the process that the Applicant would have to go through on the State level to change the conservation restriction. Ms. Taylor explained that the change had to be approved by the Conservation Commission, the Board of Selectmen, a two-thirds Town Meeting vote, the Massachusetts Legislature and the Secretary of Environmental Affairs. The time was 10:21 p.m.

There ensued a discussion of the trails and Ancient Ways on the site. Mr. Wessling explained that the Applicant would be making a \$10,000 donation for trails and by-ways improvements and \$300,000 for some Sheriff's Meadow land, which money would be passed on to the Town of Edgartown.

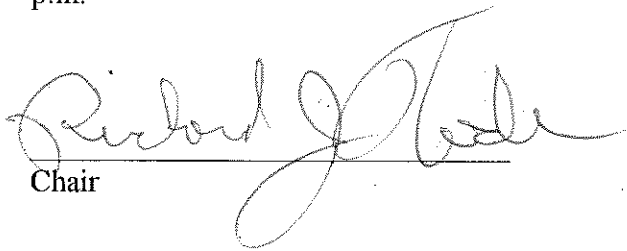
Mr. Zeltzer wanted to know if a lighting plan had been submitted. Mr. Wessling noted that the illumination would be kept low enough so as not to scare the rare and endangered moths. "The intent is not to over-illuminate the site," he said. Michael Donaroma, a Commission member representing Edgartown, added that the Sheriff's Meadow Foundation had been hired by the Applicant to manage the frost bottom; surely, they would ensure that proper illumination levels were maintained, he said. Mr. Wessling was not certain whether or not this agreement with the Sheriff's Meadow Foundation had actually been arranged.

Mr. Wessling then listed the various contributions the Applicant had offered to make to different Island organizations. There had been 18 letters received from members of the public, which he summarized. Mr. Israel asked for a review of the membership structure, which Mr. Wessling provided.

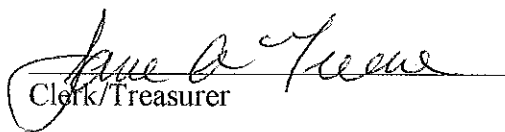
Mr. Wessling asked for more questions from the Commission; there were none.

Before the Meeting adjourned, Ms. Greene wished to convey to the MVC Staff the Commission's appreciation for all the work they had done on the projects being considered. Mr. Clifford said, "Then allow me to give Staff off on Friday, July 2." "Here, here!" said several Commission members.

Ms. Greene made a Motion to Adjourn, duly seconded. The Meeting adjourned at 10:32 p.m.

  
Chair

7-19-99  
Date

  
Clerk/Treasurer

7/19/99  
Date

PRESENT: J. Best; C. Brown; M. Colaneri; M. Donaroma; J. Greene; B. Hall, Jr.; T. Israel; L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse; R. Zeltzer; T. Henson; and Anne Gallagher.

ABSENT: M. Cini; J. Early; M. Allen; and M. Bolling.



*Summary of Revisions to the  
Meeting Minutes of June 10, 1999  
Proposed by Commission Members  
in the Meeting of June 24, 1999*

[An excerpt follows immediately from the Meeting Minutes of the Special Meeting of June 10, 1999, describing the changes as they were proposed by the Commission members during that Meeting.]

| Page | Paragraph | Sentence | Revision   |
|------|-----------|----------|--|
| 2    | 5         | 1        | Strike this sentence and substitute the following:<br>"First to speak was Peter Temple of the Aquinnah Planning Board, who noted that Camille Rose of that Board, who had intended to make that evening's presentation, was not feeling well enough to do so. (She did, however, attend that evening's Hearing.)"  |
| 8    | 6         | 1        | Strike this sentence and substitute the following:<br>"Peter Temple, the Planning Board member, wanted to address June Manning's criticism of his Board's having attempted to act in secret."  |
| 9    | 7         |          | Add the following paragraph immediately before the current paragraph 7 on page 9: " <b>Camille Rose of the Aquinnah Planning Board</b> pointed out that with the timeline in place that had begun with the Nomination's Acceptance by the Commission, there had not been enough time to duly notice the proposed bylaws and to vote on them before that timeline ran out." |